

Exhibit C



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November 23, 2022

VIA ELECTRONIC MAIL ONLY – BELY@ELYLAWLLC.COM

Brenen G. Ely
Ely & Isenberg, LLC
3500 Blue Lake Dr., Suite 345
Birmingham, Alabama 35243

Re: *Maxus Metropolitan, LLC v. Travelers Property Casualty Company of America*,
currently pending in the United States District Court for the Western District of
Missouri, Western Division (4:20-cv-00095-FJG)

Dear Mr. Ely:

I write in response to your letter dated November 22, 2022 regarding Travelers' intent to object to the proposed trial depositions of Denise Weidler and Christen Helou. We hope that the below provides clarification on the issues.

First and foremost, the above-mentioned witnesses are not testifying as experts in this case nor will they be called as expert witnesses by Maxus. Simply because these individuals work in the scientific field, as an analytical microscopist and a materials scientist, does not mean their testimony is automatically classified as that of an expert. See Fed. R. Civ. P. 701 and 702. Further, Maxus disagrees with your inference that because an expert witness relied on an underlying report, the author of that report is also an expert. These witnesses will testify as non-expert witnesses to the content of their own reports for which they have first-hand personal knowledge, including but not limited to the receipt of relevant samples, the analysis and testing of those samples, and the results of those tests.

Second, although discovery has closed, Travelers has had knowledge of these reports and the authors of each report since 2019 or 2020 – over two years ago. Moreover, Maxus is proposing *trial* depositions of these witnesses, not for discovery purposes but in lieu of trial testimony, which is routinely permitted when witnesses are otherwise unavailable for trial. Federal Rule of Civil Procedure 45(b)(2) limits the subpoena of witnesses to a 100-mile range of the courthouse. Denise Weidler lives in and/or works in Massachusetts and Christen Helou lives in and/or works in New Jersey. Accordingly, these witnesses are outside the court's subpoena power and are thus unavailable for purposes of trial. Thus, the proposed trial depositions would preserve their lay witness testimony for use at trial. See Fed. R. Civ. P. 32(a).

In light of the above, Maxus will file the Notice of Deposition attached to this letter later today.

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Very truly yours,

Lathrop GPM LLP

A handwritten signature in blue ink, appearing to read "Alana M. McMullin".

Alana M. McMullin
Associate

Attachment

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

MAXUS METROPOLITAN, LLC,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 20-cv-0095-FJG
)	
TRAVELERS PROPERTY CASUALTY)	
COMPANY OF AMERICA,)	
)	
Defendant.)	

NOTICE OF TRIAL DEPOSITION OF DENISE WEIDLER

Please take notice that, pursuant to the Federal Rules of Civil Procedure, Plaintiff Maxus Metropolitan, LLC (“Maxus”) will take the trial deposition by oral examination of Denise Weidler at 187 Billerica Road, Chelmsford, MA, 01824, beginning at 9:30 a.m. on Wednesday, December 14, 2022, and continuing thereafter from day to day until completed. Upon information and belief, Denise Weidler will testify as to all topics set forth in her June 2019 MicroVision report (*see* Docs. 78.12 and 84.39).

The deposition will take place in person and via Zoom before a certified court reporter and will be videotaped and recorded digitally, as well as by stenographic means.

Dated: November 23, 2022

Respectfully submitted,

LATHROP GPM LLP

/s/ Michael J. Abrams

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